

R277-474 received final approval by the Utah State Board of Education on September 8, 2017. R277-474 is published in the October 1, 2017 Utah State Bulletin, subject to a 30-day comment period, with a first possible effective date of November 7, 2017.

R277. Education, Administration.

R277-474. School Instruction and Human Sexuality.

R277-474-[2]1. Authority and Purpose.

~~[A-](1)~~ This rule is authorized by:

(a) Utah Constitution, Article X, Section 3, which vests general control and supervision ~~[of]over~~ public education in the Board~~[-];~~_i

(b) Subsections 53A-13-101(1)(~~(c)(ii)(B)~~) and (3), which direct[s] the Board to [develop a]adopt rules to allow local boards to adopt human sexuality education materials or programs [under Board rules]as described in this R277-474 and provide human sexuality instruction as provided in Section 53A-13-101; and

(c) Section 53A-1-401[(3)], which allows the Board to [adopt rules in accordance with its responsibilities]make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

~~[B-](2)~~ The purpose~~[s]~~ of this rule ~~[are]is~~ to provide:

(1)~~a~~ ~~[to provide-]~~requirements for~~[- the Board-]~~ LEAs and individual educators to select instructional materials about human sexuality and maturation;

(2)~~b~~ ~~[to provide-]~~notice to parents~~[-/guardians]~~ of proposed human sexuality and maturation discussions and instruction; and

(3)~~c~~ ~~[to provide-]~~direction to public education employees regarding instruction and discussion of maturation and human sexuality with students.

R277-474-[4]2. Definitions.

~~[A. "Board" means the Utah State Board of Education.~~

~~—— B. "Curriculum materials review committee (committee)" means a committee formed at the district or school level, as determined by the local board of education or local charter board, that includes parents, health professionals, school health educators, and administrators, with at least as many parents as school employees. The membership of the committee shall be appointed and reviewed annually by August 1 of each year by the local board, shall meet on a regular basis as determined by the membership, shall select its own officers and shall be subject to Sections 52-4-1 through 52-4-10.]~~

(1) "Curriculum materials review committee" or "committee" means a curriculum materials review committee formed at the school district or charter school level as described in Section R277-474-5.

~~[C-](2) "Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g" or "FERPA" [is a state statute, Sections 53A-13-301 and 53A-13-302, that protects the privacy of students, their parents, and their families, and supports parental involvement in the public education of their children]means a federal law designed to protect the privacy of students' education records.~~

~~[D-](3) "Human sexuality instruction or instructional programs" means any course, unit, class, activity or presentation that provides instruction or information to students about sexual abstinence, human reproduction, reproductive anatomy, physiology, pregnancy, marriage, childbirth, parenthood, contraception, or HIV/AIDS and other sexually transmitted diseases.[While these topics are most likely discussed in such courses as health~~

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~~education, health occupations, human biology, physiology, parenting, adult roles, psychology, sociology, child development, and biology, this rule applies to any course or class in which these topics are the focus of discussion.]~~

[E.](4) "Instructional [M]aterials [G]commission" means ~~[an]~~the advisory commission authorized under Section 53A-14-101.

[F.](5) "LEA" ~~[means a local education agency, including local school boards/public school districts, charter schools, and,]~~ for purposes of this rule, includes the Utah Schools for the Deaf and the Blind.

[G.](6) "Maturation education" means instruction and materials used to provide fifth or sixth grade students with age appropriate, medically accurate information regarding the physical and emotional changes associated with puberty, to assist in protecting students from abuse and to promote hygiene and good health practices.

[H.](7) "Medically accurate" means verified or supported by a body of research conducted in compliance with scientific methods and published in journals that have received peer-review, where appropriate, and recognized as accurate and objective by professional organizations and agencies with expertise in the relevant field, such as the American Medical Association.

[I.](8) "Parental notification form" means a form developed by the [USOE]Superintendent and used exclusively by LEAs or[Utah] public schools for parental notification of subject matter identified in this rule. ~~[Students may not participate in human sexuality instruction, maturation education, or instructional programs as identified in R277-474-2D without prior affirmative parent/guardian response on file. The form:~~

~~—— (1) shall explain a parent's right to review proposed curriculum materials in a timely manner;~~

~~—— (2) shall request the parent's permission to instruct the parent's student in identified course material related to human sexuality or maturation education;~~

~~—— (3) shall allow the parent to exempt the parent's student from attendance for class period(s) while identified course material related to human sexuality or maturation education is presented and discussed;~~

~~—— (4) shall be specific enough to give parents fair notice of topics to be covered;~~

~~—— (5) shall include a brief explanation of the topics and materials to be presented and provide a time, place and contact person for review of the identified curricular materials;~~

~~—— (6) shall be on file with affirmative parent/guardian response for each student prior to the student's participation in discussion of issues protected under Section 53A-13-101; and~~

~~—— (7) shall be maintained at the school for a reasonable period of time.]~~

[J.](9) "Professional development" means training in which Utah educators may participate to renew a license, receive information or training in a specific subject area, teach in another subject area or teach at another grade level.

[K.](10) "Utah educator" means an individual such as an administrator, teacher, counselor, teacher's assistant, or coach, who is employed by a unit of the Utah public education system and who provides teaching or counseling to students.

[L.](11) "Utah Professional Practices Advisory Commission (UPPAC)" means a

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Commission ~~[authorized]~~ established under 53A-6-301 and designated to review allegations against educators and recommend action against educators' licenses to the Board.

~~[M. "USOE" means the Utah State Office of Education.]~~

R277-474-3. General Provisions.

~~[A.](1)~~ The following may not be taught in Utah public schools through the use of instructional materials, direct instruction, or online instruction:

~~[(1)a]~~ the intricacies of intercourse, sexual stimulation or erotic behavior;

~~[(2)b]~~ the advocacy of premarital or extramarital sexual activity; or

~~[(3)c]~~ the advocacy or encouragement of the use of contraceptive methods or devices.

~~[B.](2)~~ Educators are responsible to teach the values and information identified under Subsection 53A-13-101(4).

~~[C.](3)~~ Utah educators shall follow all provisions of federal and state law including ~~[parent/guardian]~~ the parental notification and prior written parental consent requirements ~~[under]~~ described in Sections 76-7-322 and 76-7-323 ~~[in]~~ when teaching any aspect of human sexuality.

(4) While human sexuality instruction and related topics are most likely to take place in such courses as health education, health occupations, human biology, physiology, parenting, adult roles, psychology, sociology, child development, and biology, this rule R277-474 applies to any course or class in which these topics are the focus of discussion.

R277-474-4. State Board of Education Responsibilities.

The ~~[Board]~~ Superintendent shall:

~~[A.](1)~~ develop and provide professional development and assistance with training for educators on law and rules specific to human sexuality instruction and related issues.

~~[B.](2)~~ develop ~~[and provide]~~, for Board approval, a parental notification form and timelines for use by LEAs.

~~[C.](3)~~ establish a review process for human sexuality instructional materials and programs using the ~~[H]~~ instructional ~~[M]~~ materials ~~[C]~~ commission and requiring final Board approval of the ~~[H]~~ instructional ~~[M]~~ materials ~~[C]~~ commission's recommendations.

~~[D.](4)~~ approve only medically accurate human sexuality instruction programs.

~~[E.](5)~~ receive and track parent and community complaints and comments received from LEAs related to human sexuality instructional materials and programs.

R277-474-5. LEA Responsibilities.

~~[A.](1)~~ ~~[Annually each]~~ An LEA shall require all newly hired or newly assigned Utah educators with responsibility for any aspect of human sexuality instruction to attend ~~[state-sponsored]~~ professional development outlining the human sexuality curriculum and the criteria for human sexuality instruction in any courses offered in the public education system.

~~[B.](2)~~ [Each] An LEA governing board shall provide training consistent with Subsection R277-474-5[A](1) at least once during every three years of employment for

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Utah educators.

~~[C.]~~(3) ~~[Local school]~~An LEA governing board~~[s and local charter boards]~~ shall form a curriculum materials review committee~~[s (committee)]~~ at the school district or charter school level as ~~[follows:]~~described in Subsection (4).

(4)(a) An LEA governing board shall annually appoint and review members of the LEA's curriculum materials review committee on or before August 1.

(b) An LEA's curriculum materials review committee shall include parents, health professionals, school health educators, and administrators, with at least as many parents as school employees.

(c) The members of an LEA's committee shall:

(i) meet on a regular basis, as determined by the membership;

(ii) select officers; and

(iii) comply with Title 52, Chapter 4, Open and Public Meetings Act.

(5) An LEA's curriculum materials review committee shall:

~~[(1)]~~a) ~~[The committee shall]~~be organized consistent with Subsection R277-474-2[B](1)~~[-:]~~;

~~[(2)]~~b) ~~[Each committee shall]~~designate a chair and procedures~~[-:]~~; and

~~[(3)]~~c) ~~[The committee shall]~~review and approve all guest speakers and guest presenters and their respective materials relating to human sexuality instruction in any course and maturation education prior to their presentation~~[s]~~.

~~[(4)]~~6) The committee ~~[shall]~~may not authorize the use of any human sexuality instructional program or maturation education program not previously:

(a) approved by the Board~~[-:]~~;

(b) approved consistent with R277-474-6~~[-:]~~; or

(c) approved under Subsection 53A-13-101(1)(c)(ii).

~~[(5)]~~7) The district superintendent or charter school administrator shall report educators who willfully violate the provisions of this rule to the Utah Professional Practices Advisory Commission for investigation and possible discipline.

(8)(a) Students may not participate in human sexuality instruction, maturation education, or other instructional programs without prior affirmative parent consent, as evidenced by a completed parental notification form, on file.

~~[(6)]~~b) ~~[The]~~An LEA shall obtain parental consent from a student's parent us~~[e]~~ing the common parental notification form or a form that satisfies all criteria of the law and Board rules, and comply with timelines approved by the Board.

(9) The parental notification form shall:

(a) explain a parent's right to review proposed curriculum materials in a timely manner;

(b) request the parent's permission to instruct the parent's student in identified course material related to human sexuality or maturation education;

(c) allow the parent to exempt the parent's student from attendance for a class period where identified course material related to human sexuality instruction or maturation education is presented and discussed;

(d) be specific enough to give parents fair notice of topics to be covered;

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(e) include a brief explanation of the topics and materials to be presented and provide a time, place and contact person for review of the identified curricular materials;

(f) be retained on file with affirmative parental consent for each student prior to the student's participation in discussion of issues protected under Section 53A-13-101; and

(g) be maintained at the student's school for a reasonable period of time.

(7)(10) [Each]An LEA shall develop a logging and tracking system of parental and community complaints and comments resulting from student participation in human sexuality instruction, to include the disposition of the complaints, and provide that information to the [USOE]Superintendent upon request.

(8)(11) If a student is exempted from course material required by the Board-approved Core Standards consistent with Subsections 53A-13-101.2(1), (2) and (3), the school shall:

(1)a) waive the participation requirement; or

(2)b) provide a reasonable alternative to the requirement.

R277-474-6. Local School Board or [Local]Charter School Governing Board Adoption of Human Sexuality Education and Maturation Education Instructional Materials.

[A-](1) An [local]LEA governing board may adopt the LEA's instructional materials [under]if the instructional materials meet the requirements of Subsection 53A-13-101(1)(c)(iii).

[B-](2) Instructional [M]materials [that are] adopted as described in Subsection (1) shall:

(a) comply with the criteria of Subsection 53A-13-101(1)(c)(iii) and:

(1)b) [shall]be medically accurate[as defined in R277-474-2H.];

(2)c) [shall]be approved by a majority vote of the [local board members or local charter board members]LEA governing board present at a public meeting of the LEA governing board[-]; and

(3)d) [shall]be available for reasonable review opportunities to residents of the school district or parents[guardians] of charter school students prior to consideration for adoption.

[C-](3) [The]An LEA shall comply with the reporting requirement of Subsection 53A-13-101(1)(c)(iii)(D).

(4) [The]A report to the Board shall include:

(1)a) a copy of[the] human sexuality instructional materials [and]or maturation education materials not approved by the Instructional Materials Commission that the local board or local charter board seeks to adopt;

(2)b) documentation of the materials' adoption in a public board meeting;

(3)c) documentation that the materials or program meets the medically accurate criteria [of R277-474-2H]as defined in Subsection R277-474-2(7);

(4)d) documentation of the recommendation of the materials by the committee; and

(5)e) a statement of the local board's or local charter board's rationale for selecting materials not approved by the [I]instructional [M]materials [C]commission.

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~~[D-](4) [The local board's or local charter]~~An LEA governing board's adoption process for human sexuality instructional materials and maturation education materials shall include a process for annual review of the LEA governing board's decision.

R277-474-7. Utah Educator Responsibilities.

~~[A-](1)~~ Utah educators shall participate in training provided under Subsections R277-474-5[A](1) and (2).

~~[B-](2)~~ Utah educators shall use the common parental notification form or a form approved by ~~[their employing]~~the educator's LEA, and follow timelines approved by the Board.

~~[C-](3)~~ Utah educators shall individually record parent and community complaints, comments, and the educators' responses regarding human sexuality instructional programs.

~~[D-](4)~~ Utah educators may respond to spontaneous student questions for the purposes of providing accurate data or correcting inaccurate or misleading information or comments made by students in class regarding human sexuality.

KEY: schools, sex education

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Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-13-101(1)~~[(c)(ii)(B)]~~ and (3); 53A-1-401~~[(3)]~~